

FILED
CHARLOTTE, NC

OCT 25 2010

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN THE MATTER OF: SEARCH OF
INFORMATION ASSOCIATED WITH
EMAIL ACCOUNTS UTILIZING THE
DOMAIN NAME "FSCLABS.COM" THAT
IS STORED AT PREMISES CONTROLLED
BY RACKSPACE US, INC.

Case No. 3:10-mj-188

FILED UNDER SEAL

**MOTION TO SEAL AND APPLICATION
FOR AN ORDER OF NON-DISCLOSURE OF SEARCH WARRANT**

The United States of America hereby moves to seal this motion, the accompanying search warrant, application for search warrant, supporting affidavit and warrant return. These documents discuss an ongoing criminal investigation that is neither public nor known to all targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize the investigation. Moreover, this Affidavit discusses the existence of a *qui tam* action that has been filed in another judicial district and remains under seal.

The United States requests that pursuant to the preclusion of notice provisions of 18 U.S.C. § 2705(b), Rackspace US, Inc. be ordered not to notify any person (including the subscriber or customer to which the materials relate) of the existence of this search warrant until further order of the Court. Such an order is justified because notification of the existence of this search warrant would seriously jeopardize the ongoing investigation. Such a disclosure would give the subscriber corporations, FSC Laboratories, Inc. and FSC Pediatrics, Inc. an opportunity to destroy evidence, change patterns of behavior, or notify confederates.

WHEREFORE, it is respectfully requested that the Court grant the attached Order directing Rackspace US, Inc. not to disclose the existence of the search warrant or the application except to the extent necessary to carry out the Order. The United States further requests that this Application and the Court's Order be filed under seal.

Respectfully submitted,

/s/ Kelli H. Ferry
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